

CHAPTER NO. 990**SENATE BILL NO. 2096****By Ford, Curtis S. Person, Jr., Cohen****Substituted for: House Bill No. 1991****By Lois DeBerry, Marrero, Larry Turner, Rowe, Henri Brooks, John Deberry, Ulysses
Jones,
Miller, Favors**

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 7, Part 5, relative to chairs of excellence.

WHEREAS, the General Assembly finds that, due to unanticipated factors, the purpose for which a chair was created under the Chairs of Excellence endowment fund may become impractical or otherwise difficult to accomplish; and

WHEREAS, the General Assembly further finds that the primary intent and purpose of the Chairs of Excellence endowment fund was to provide for the advancement and improvement of higher education in this state; and

WHEREAS, pursuant thereto, the General Assembly hereby finds that it may be necessary or prudent to redirect the income from the corpus allocated to a chair to funding academic scholarships that will provide opportunities for students to pursue their educational and occupational goals; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 7, Part 5, is amended by adding the following new section:

49-7-503.

(a) Should the purpose for which a chair established pursuant to this part become unlawful, impracticable, impossible to achieve, or wasteful, the designated purpose for which the chair was created may be modified pursuant to this section. It is the legislative intent that in such situations, institutions strive to re-designate the field of study supported by a chair such that income from the chair of excellence be used by the institution to retain professors of regional and, preferably, national eminence in a given field of study in furtherance of the original legislative intent. However, under extraordinary circumstances, the purpose for an existing chair may be re-designated to support a scholarship program when it is shown that re-designating the field of study supported by a chair will not serve to promote the best interest of the institution. Factors considered in making such a determination may include the existence of extensive periods of time during which the chair remains unfilled or the fulfillment of the academic purpose for which the chair was created has become impractical or unachievable.

(b) In order for the purpose of a chair to be modified, the following criteria must be satisfied:

(1) The new purpose of the chair must satisfy criteria established by either the governing board of the University of Tennessee or the board of regents, whichever is appropriate.

(2) The institution must submit a proposal regarding the chair to the appropriate governing body and the Tennessee higher education commission. Such proposal shall specify: the factors supporting a conclusion that the purpose for which a chair established pursuant to this part has become unlawful, impracticable, impossible to achieve, or wasteful; the intended purpose for the re-designated use of income from the chair; if possible, a statement from the donor of private funds shall be included which indicates support or opposition to the proposed change; the institution's observations on how the proposed change will assist the institution in achieving that institution's mission; and such other information as the appropriate governing board may direct.

(3) The appropriate governing body must agree to the modification in purpose of the chair; provided, if the proposal is to use chair income for scholarships, such approval must be unanimous. The appropriate governing body shall not act on a proposal submitted pursuant to this part until the comments of the higher education commission have been received.

(c) No funds shall be expended for the proposed new purpose of a chair of excellence authorized by this section unless such proposal shall be submitted to the Senate and House Education Committees for review and recommendation, and shall be approved by resolutions of the Senate and House of Representatives, but such approval shall be on the complete plan or revision and shall not be subject to amendment of the plan or revision. In submitting a specific chair for review by the general assembly and its committees, the appropriate governing board shall:

(1) Estimate the annual funding required, by source, to support operation of the chair or scholarship program;

(2) Describe the general qualifications of individuals that the institution intends to recruit to fill the chair or, if a scholarship program, provide a description of the program including the purpose and qualifications which students must meet to be eligible for such scholarships;

(3) Comment on how establishment of the chair or scholarship program will assist the institution in achieving that institution's mission; and

(4) Comment on the impact the establishment of the chair or scholarship program will have on any other institutional programs.

(d) The corpus that was allocated to the chair shall not be expended for any purpose. Income from the corpus shall be expended for the sole purpose of funding the scholarship program created pursuant to subsection (b); provided, that investment expenses may be deducted from the income. The corpus and the income therefrom shall remain, and be invested as, a part of the Chairs of Excellence endowment fund.


(e) The state treasurer is directed to modify the terms of the trust instrument to reflect the provisions of this section. Such modified terms shall be approved by the attorney general and reporter.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect on July 1, 2006, the public welfare requiring it.

PASSED: May 26, 2006


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this day of 2006

PHIL BREDESEN, GOVERNOR

Pursuant to Article III, Section 18, of the Constitution of the State of Tennessee, the Governor had Senate Bill No. 2096 in his possession longer than ten (10) days; therefore, the bill becomes law without the Governor's signature.